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C O N F I D E N T I A L SECTION 01 OF 03 PRISTINA 000163

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SUBJECT: KOSOVO: PROGRESS ON CIVAIR BUT MORE WORK TO BE DONE

Classified By: AMBASSADOR TINA S. KAIDANOW FOR REASONS 1.4 (B) AND (D)

¶1. (SBU) SUMMARY: Kosovo's civil aviation regime has seen significant changes in the past ten years, with Pristina International Airport (PIA) evolving from a military airport run by KFOR in 1999 to assuming full operational control over commercial flights and establishing nascent national civil aviation bodies by the end of 2008. While UNMIK retains umbrella authority over Kosovo's civil aviation operations per agreement with NATO, Kosovo is making steady progress toward full implementation of the country's civil aviation law, and PIA received aerodrome certification from the Icelandic Civil Aviation Authority (ICAA) in the fall of ¶2008. Recently, some growing pains have become evident within Kosovo's new civil aviation bodies as they strive to find the right balance between required regulation and encouragement of open competition. A growing airport, PIA served over one million passengers in 2008 and commercial airlines have so far expressed satisfaction with Kosovo's civil aviation operations. However, Kosovo must take care not to develop an onerous civil aviation regulatory framework that would force businesses to consider using airports in neighboring countries. Continued coordination from the international community will be necessary to keep Kosovo on the right path. END SUMMARY.

Background

¶2. (SBU) After the 1999 conflict ended, NATO retained authority over civil aviation in Kosovo, with Italian KFOR responsible for airspace and Russian KFOR overseeing operations at PIA. While commercial flights still continued, PIA essentially remained a military airport. In anticipation of airport functions returning to civilian control, UNMIK established the Civil Aviation Regulatory Office (CARO) in June 2003 to regulate the civil aviation sector and to perform functions such as reviewing and approving airline operating requests, overseeing the protection of passenger rights, and monitoring aviation security procedures. Through an agreement with UNMIK, CARO received staff from the International Civil Aviation Organization (ICAO) to train and advise Kosovo civil aviation staff according to international civil aviation standards.

¶3. (SBU) In 2004, PIA and lower airspace authority were transferred to UNMIK, with NATO retaining control over

Kosovo's upper airspace. UNMIK contracted the ICAA to provide operational control of PIA, including air traffic control, as well as civil aviation mentoring and guidance to airport staff. Until 2007, key supervisory positions, such as the managing director, supervisors, instructors, deputy chiefs and chief air traffic controller, were performed by Icelandic staff. Gradually, the ICAA transferred operational responsibilities to local employees, and all of these positions now have been transitioned to local personnel. ICAA remained only in an advisory role to the airport and to oversee project implementation and other major investments. The last ICAA advisor departed Kosovo at the end of 2008.

Transition to Local Authority

14. (SBU) Kosovo's Law on Civil Aviation entered into force in June 2008. Shortly afterwards, the International Civilian Office (ICO) established a civil aviation transition team (CATT), comprised of key international local stakeholders, to identify the steps Kosovo needed to take to execute institutional and operational transition of civil aviation responsibilities from UNMIK to local authorities. The Civil Aviation Law stipulates the competent civil aviation institutions in Kosovo as:

- the Ministry of Transport and Telecommunications, in charge of economic regulation of airlines, including licensing of Kosovo air carriers and approval of traffic rights to foreign air carriers;

- the Civil Aviation Authority (CAA), in charge of

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regulatory activities with respect to aviation safety and tariffs for airports and air navigation services providers;

- the Ministry of Interior, in charge of regulatory activities with respect to aviation security;

- and the Accident and Incident Investigation Commission (AIIC), reporting to the office of the Prime Minister, in charge for investigation of aviation accidents and serious incidents in Kosovo.

At the time the Civil Aviation Law was passed, none of the above-named entities was engaged with civil aviation issues and in the case of the CAA and the AIIC, these bodies did not even exist.

15. (SBU) Both CARO and the ICAA were scheduled to conclude their operations in Kosovo by the end of 2008. In order to assume the responsibilities of these bodies before the end of the year, Kosovo needed a concrete action plan to establish needed civil aviation bodies, particularly with regard to licensing and aviation safety. CATT, with representation from CARO/UNMIK, ICAA, PIA, ICO, KFOR, USG and relevant GOK ministries and agencies, worked to ensure these key bodies and local regulations were in place before the end of the year. CARO provided hands-on expertise and guidance in drafting implementing regulations and safety plans, ensuring that these matched international (read: ICAO) standards. CATT worked closely with the GOK to establish the country's new civil aviation regulator, the CAA, in September 2008, and supported transferring many employees previously employed by CARO to the new agency, ensuring that institutional memory and expertise was not lost. PIA coordinated closely with the CAA and the ICAA to meet ICAO aerodrome standards, finishing critical airport upgrades that enabled the ICAA to certify PIA as meeting the internationally recognized safety and security standards set by ICAO.

16. (SBU) By the end of 2008, Kosovo had taken the essential actions necessary for assuming functional civil aviation responsibilities for the country. Although Kosovo has made great strides in the area of civil aviation, the agreement UNMIK would maintain "umbrella" authority over civil aviation

operations in Kosovo and NATO would maintain control over Kosovo's upper airspace has remained in place. UNMIK also continues to remain a trustee of PIA's airport locator code, which it obtained from ICAO on Kosovo's behalf. NATO agreed to re-start Balkan Airspace Normalization meetings in January 2009, although any eventual return of upper airspace to civilian control will require the support and agreement of Kosovo's neighbors.

Growing Pains

17. (C) The work of CATT has been largely successful, although establishment of key bodies and implementing regulations is still waiting to be finalized. The Ministry of Internal Affairs has begun actively working to create positions in order to staff the Department for Civil Aviation Safety. Establishment of the Accident and Incident Investigation Commission has been delayed, with the Office of the Prime Minister struggling to finalize appointments to this body. The Ministry of Transport and Telecommunications also needs to make appointments to the CAA's Supervisory Board, a key oversight body. Part of Kosovo's difficulty is the limited pool of qualified civil aviation professionals to dip into to fill these roles, without creating overlapping authorities. Another reason for delay was the initial lack of understanding by some officials of the importance of getting these bodies in place. The CATT has successfully educated the ministries involved and while the appointments process plays out, the CAA has taken on a caretaker role in the absences of these bodies.

18. (C) To date, commercial airlines have expressed confidence in Kosovo's civil aviation administration. PIA has been growing steadily - serving over one million passengers in

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2008 - a 15 percent increase in passenger traffic from the previous year. In December 2008, PIA received a "Gold Station" award from British Airways for improved quality of service from April-October of the same year. Despite these accolades, growing pains have become evident within Kosovo's new civil aviation bodies. The Ministry of Transportation and Telecommunications' Economic Regulatory Department issued a regulation for charter airlines in March that caused immediate concern for all charter airlines flying to Kosovo and their agents. Based on this regulation, a charter airline from an EU country was recently refused a license renewal without explanation. The requirements for refusing a license to a charter applicant are extremely vague, allowing for the reviewer to reject an applicant at his discretion and without explanation. Additionally, the same regulation stipulated a deposit of 500,000 euro from an agent selling tickets on behalf of the charter flight operator, effectively pricing most local representatives out of the market and blurring the lines between economic regulation of civil aviation and private business. This fee is in addition to a 100,000 euro deposit already required by the charter airlines themselves.

19. (C) Such discriminatory policies are in contravention of Kosovo's own and international competition laws. Kosovo needs to encourage competition, not discourage it, particularly given the current fiscal environment. With the airport in Skopje, Macedonia only a 90-minute drive from Pristina, it will not take long for companies to look to neighboring countries with more favorable policies. The Ministry did acknowledge these points and in the end, asked for Embassy assistance to coordinate with the other civil aviation bodies to review the policies for compliance with Kosovo's laws and international standards. Ensuring Kosovo remains steadily on the track toward meeting all international standards is particularly critical as the GOK moves closer toward concessioning of the airport.

Concessioning of Airport Operations

¶10. (SBU) Last year the GOK approved a decision to introduce private sector capital and expertise into PIA, to improve its competitive position vis-a-vis other airports in the region and enhance profitability. PIA is currently owned and operated by Pristina International Airport, JSC, a publicly owned enterprise. To assist the Government in structuring and implementing a Public Private Partnership (PPP) for the airport, and to ensure the project is developed in accordance with international best practices, the GOK hired NACO-INNOVA in March 2009, a U.S.-Dutch independent aviation-consulting firm, supported by White & Case as U.S. legal representation.

NACO-INNOVA is currently conducting an assessment of Kosovo's airport and civil aviation sector, and anticipates presenting the GOK with concessioning options as early as May. Decision on the most attractive concession option, tendering and award is expected to be completed by the end of 2009, at which point PIA would be operated by a private company. A successful bid will greatly depend on Kosovo's civil aviation institutions demonstrated commitment to maintain international civil aviation standards and practices.

¶11. (SBU) COMMENT: While Kosovo has made great strides in the area of civil aviation, much work remains to be done. The challenge of balancing regulatory oversight with fostering greater competition in the market is not unique to the civil aviation sector, but Kosovo stands to lose a great deal very quickly should they issue regulations that are not attractive to reputable foreign investors. Of equal concern is garnering the serious attention of government officials to finish the job of fully implementing Kosovo's civil aviation law. While the GOK technically has one year from the date of the law's passage to reach compliance, this job is best accomplished sooner rather than later. The Embassy will continue to work closely with our international and local partners to keep this issue a high priority. END COMMENT.
KAIDANOW